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Applicant(s)	Scafidi	COMMUNICATION REGARDING APPEAL
Serial No.	09/740,771	
Filing Date	December 19, 2000	
Examiner Name	Hung Ngo	
Group Art Unit	2831	
Confirmation No.	5416	
Attorney Docket No.	100.154US01	
Title: ENHANCED HEAT TRANSFER FOR HOUSINGS		

JAN 22 2004

OFFICIAL#16 / It re:
Def.
Brief
P. Evans
2/4/04

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Office Communication, mailed January 13, 2004, regarding an Appeal brief for this application, Applicant respectfully traverses the Examiner's assertion that the appeal brief, filed on October 14, 2003, was untimely filed. Applicant filed the Notice of Appeal on August 11, 2003. The Office date of receipt of the notice of appeal as found on the return receipt postcard received from USPTO indicated that the documents were received by the USPTO on August 14, 2003. (copy attached).

37 CFR §1.192(a) states, in part:

"Appellant must, within two months from the date of the notice of appeal under §1.191 or within the time allowed for reply to the action from which the appeal was taken, if such time is later, file a brief in triplicate."

MPEP 1206 "Timing for Filing Appeal Brief" provides:

"The usual period of time in which appellant must file his or her brief is 2 months from the date of appeal. The Office date of receipt of the notice of appeal (and not the date indicated on any Certificate of Mailing under §37 CFR 1.8) is the date from which this 2 month time period is measured. See MPEP § 512."

COMMUNICATION REGARDING APPEAL

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The Appeal Brief for this application was due by October 14, 2003, two months from the Office date of the receipt of the notice of appeal. The Appeal Brief was filed on October 14, 2003 which is two months from the Office date of receipt of the notice of appeal. As a result, Applicant believes the Appeal Brief was timely filed and requests that the Examiner issue a communication accepting the Appeal Brief filed on October 14, 2003 and that the Appeal Brief be processed accordingly.

Please contact the undersigned attorney if you have any questions.

Respectfully submitted,

Date: 22 January 2004 Laura A. Ryan
Laura A. Ryan
Reg. No. 49,055

Attorneys for Applicant
Fogg and Associates, LLC
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Receipt of the below-listed documents is hereby acknowledged in the U.S. Patent and Trademark Office

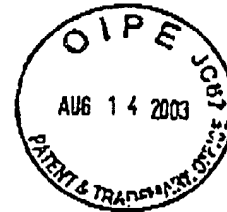
Applicant: Christopher J. Scafidi
Serial No.: 09/740,771
Filing date: December 19, 2000
Title: ENHANCED HEAT TRANSFER FOR HOUSINGS

Enclosed: Notice of Appeal to the Board of Patent Appeals and Interferences (1 pg.); A check in the amount of \$320.00 to cover the Notice of Appeal fee; Change of Correspondence Address (1 pg.); and Transmittal document.

Mailed: August 11, 2003

Attorney Docket No.: 100.154US01

LAR:jcs



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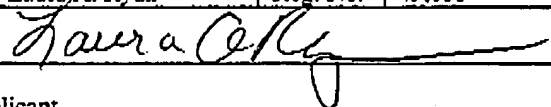
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Enclosures					
The following documents are enclosed:					
<input checked="" type="checkbox"/> <u>Communication Regarding Appeal (2 pgs.)</u>					
<input checked="" type="checkbox"/> <u>Copy of the return receipt postcard (1 pg.)</u>					
Please charge any fees or credit any overpayments to Deposit Account No. 502432.					
CUSTOMER NO. 34206					
Submitted By					
Name	Laura A. Ryan	Reg. No.	49,055	Telephone	(612) 332-4720
Signature				Date	January 22, 2004
Attorneys for Applicant Fogg and Associates, LLC P.O. Box 581339 Minneapolis, MN 55458-1339 T: 612-332-4720 F: 612-332-4731					
Certificate of Transmission					
I certify that this correspondence, and the documents identified above, are being transmitted by facsimile to Central Fax (Facsimile No. 703-872-9306) of the United States Patent and Trademark Office on January 22, 2004					
Name	Jane E. Sagers		Signature 